

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH, 'E': NEW DELHI**

BEFORE SHRI CHALLA NAGENDRA PRASAD, JUDICIAL MEMBER

AND

SHRI BRAJESH KUMAR SINGH, ACCOUNTANT MEMBER

ITA No.2274/DEL/2024

[Assessment Year: 2014-15]

Manisha Arora, C-4, Greater Kailash, South Delhi Delhi-110048	Vs	Income Tax Officer, Ward-29(1), Delhi
PAN-ADTPA8801D		
Assessee		Revenue

Assessee by	Shri Alakto Majumder, CA
Revenue by	Shri Amit Shukla, Sr. DR

Date of Hearing	05.08.2024
Date of Pronouncement	22.08.2024

ORDER

PER BRAJESH KUMAR SINGH, AM,

This appeal by the assessee is directed against the order of the National Faceless Appeal Centre (NFAC), New Delhi, dated 13.03.2024 pertaining to Assessment Year 2014-15.

2. The grounds of appeal raised by the assessee reads as under:-

"1. On the facts and in the circumstances of the case and in law, the Ld. CIT(A) erred in dismissing the appeal on the grounds of "not being filed on time and no reasonable reason given for such delay of six years" while issuing the order u/s 250 of the Income-tax Act, 1961.

2. On the facts and in the circumstances of the case and in law, the Ld. CIT(A) further erred in concluding that the issue on the merit of this case is not required to be discussed' while passing the impugned order.

3. On the facts and in the circumstances of the case and in law, the Ld. CIT (A) erred in upholding the addition of income amounting to Rs.37,07,905 without considering the facts of the case.

4. On the facts and in the circumstances of the case and in law, the said order of the Ld. CIT(A) is arbitrary and bad in law and hence, deserves to be struck down.

5. *On the facts and in the circumstances of the case and in law, the Ld. CIT(A) erred in issuing the order u/s 250 of the Income-tax Act, 1961 without offering adequate opportunity of being heard to the assessee which is against the principle of natural justice.”*

3. Brief facts of the case: The appeal filed before the Id. CIT(A) emanated from an order u/s 154 of the Act dated 27.12.2022. However, the Ld. CIT(A) held that there was a delay of six years in filing the appeal before the Id. CIT(A) by taking note of the fact that the original order u/s 154 of the Act was passed on 13.01.2016 raising a demand of Rs.17,99,230/-. The Id. CIT(A) did not agree with the explanation of the assessee for the delay in filing of the appeal and the condonation for delay was rejected by the Id. CIT(A). The Ld. CIT(A) held that the present appeal was not maintainable in view of the provision of section 249(2) of the Act and dismissed the appeal of the assessee.

3.1. In the appellate proceedings, the assessee submitted a synopsis and a sequence of events with respect to the facts of the case and the development thereafter as under:-

1. That the appellant assessee, Mrs. Manisha Arora [PAN ADTPA8801D], has filed her Income Tax Return [ITR] in ITR-3 for the Assessment Year [AY] 2014-15 on 21/09/2014 [Annexure 1].
2. That for three House Properties, the assessee with a 50% ownership returned 50% of rental income. However, the ITR was processed on 16/05/2015 u/s 143(1) [Communication Reference No. CPC/1415/A3/1427989440] considering 100% ownership raising a demand of Rs. 18,52,190. [Annexure 2]
3. That against the rectification request, which was made on 03/12/2015 by the assessee, an order u/s 154 [Document Identification No: CPC/1415/U3/1539532275] was passed on 13/01/2016. A demand [Demand Identification No: 2015201437072294564T] was raised for Rs. 17,99,230. [Annexure 3]
4. That the consultant, CA Brij Bhushan Tandon [ICAI Membership No. 8140], who used to help and advise assessee on tax related matters, has unfortunately passed away during this period. His email address [returns.btitr@yahoo.com] was mentioned in the ITR.
5. That the said order u/s 154 was neither emailed or otherwise communicated to the assessee. A screenshot of Income-tax portal confirming the same is attached. [Annexure 4]
6. That the assessee was then served a notice u/s 221(1) with a demand of Rs. 17,41,053 with interest u/s 220(2) on 20/06/2019. This notice

was issued on 07/06/2019 asking the assessee to appear on 17/06/2019. [Annexure 5]

7. That once the assessee was communicated about this demand, she again filed another rectification request u/s 154 on 02/07/2019 explaining what should be rectified. [Annexure 6]
8. That the appellant assessee further disagreed with the demand and responded on 04/07/2019 through the Income-tax portal confirming to have made this rectification request. [Annexure 7]
9. That the Ld. AO responded on 26/08/2022 through the portal confirming that the 'Demand outstanding is correct and collectible'. [Annexure 8]
10. That on 04/01/2023, Assessee was served a demand notice [ITBA/RCV/F/17/2022- 23/1048272854(1)] dated 27/12/2022 for Rs. 16,70,027. [Annexure 9]
11. That the appellant assessee preferred an appeal before the Ld. CIT(A) on 10/02/2023 which was 'dismissed for not being filed on time and no reasonable reason given for such delay of six years' on 13/03/2024 [DIN & Order No: ITBA/NFAC/S/250/2023-24/1062522600(1)].
12. Being aggrieved, the assessee prefers an appeal before the Hon'ble Appellate Tribunal.

21/09/2014	Assessee has filed original ITR-3.
16/05/2015	ITR was processed with a demand of Rs. 18,52,190.
03/12/2015	Rectification request was made by the assessee.
13/01/2016	Order u/s 154 was passed raising a demand of Rs. 17,99,230.
20/06/2019	Assessee was served a notice u/s 221(1) with a demand of Rs. 17,41,053 with interest u/s 220(2).
02/07/2019	Assessee again filed another rectification request u/s 154 pointing out what should be rectified.
04/07/2019	Appellant assessee further disagreed with the demand in the Income-tax portal and responded accordingly.
26/08/2022	Ld. AO responded confirming that the 'Demand outstanding is correct and collectible'
27/12/2022	Demand notice [ITBA/RCV/F/17/2022-23/1048272854(1)] was issued.
04/01/2023	Above demand notice was served on the assessee at her home.
10/02/2023	Appellant assessee preferred an appeal before the Ld. CIT(A).
13/03/2024	Ld. CIT(A) passed the impugned order dismissing the appeals [DIN & Order No: ITBA/NFAC/S/250/2023-24/1062522600(1)]

3.3. During the appellate proceedings, the AR filed a copy of death certificate dated 26.01.2015 of the assessee's tax consultant CA Brij Bhushan Tandon, who passed away on 24.01.2015. It was submitted by the ld. AR that Shri Brij Bhushan Tandon advised the assessee on tax related matters and his e-mail address [returns.btitr@yahoo.com] was mentioned in the ITR of the assessee and the u/s 154 order dated 13.01.2016 raising the demand of Rs.18,52,190/- was neither e-mailed or otherwise communicated to the assessee. It was further submitted that the assessee was served the demand notice on 04.01.2023 with a demand notice dated 27.12.2022 for Rs.16,70,027/-. Thereafter, the assessee filed an appeal before the ld. CIT(A) on 10.02.2023 against the order u/s 154 dated 27.12.2022. Prior to that the assessee had filed a rectification request u/s 154 of the Act dated 02.07.2019 upon receipt of notice u/s 221(1) of the Act dated 20.06.2019. It was submitted that the assessee was under bonafide belief that the rectification application filed on 02.07.2019 was pending before the AO and was hopeful of relief and the vacation of the demand. It was further submitted that on merits, the assessee had filed return of income showing income from house property at Rs.46,92,023/-, which was processed at Rs.83,99,928/-. It was submitted that demand was raised due to the mistake in the order u/s 154 dated 13.01.2016, wherein, the assessee's ownership in respect of the house property was taken at 100%, whereas, the assessee's ownership was only 50%. It was submitted that the delay of filing in appeal before the ld. CIT(A) may kindly be condoned and the matter may be restored back to the file of the ld. CIT(A) for consideration of the facts on merits.

3.4. The ld. DR relied upon the orders of the authorities below.

4. We have heard both the parties and perused the material available on record. We have considered the facts of the case and the reasons for the delay in filing the appeal. In view of the fact of the death of the tax consultant of the assessee during the material period and the assessee's bonafide belief that its petition u/s 154 dated 02.07.2019 was still pending, we are satisfied that there was a reasonable cause for the delay in filing of the appeal. Hence, we condone the delay in filing the appeal before the Ld. CIT(A) and restore the matter to the file of the ld. CIT(A) to decide the appeal on merits. The ld. CIT(A) will give reasonable opportunity of being heard to the assessee before deciding the appeal.

5. In the result, the appeal of the assessee is allowed for statistical purposes.

Order pronounced in the open court on 22nd August, 2024.

Sd/-
[CHALLA NAGENDRA PRASAD]
JUDICIAL MEMBER

Sd/-
[BRAJESH KUMAR SINGH]
ACCOUNTANT MEMBER

Dated 22.08.2024.

SPK

Copy forwarded to:

1. Assessee
2. Respondent
3. CIT
4. CIT(A)
5. DR

Asst. Registrar,
ITAT, New Delhi